

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JEREMY D. SMITH)	
o/b/o PAMELA JUNE SHIFFER,)	
deceased,)	
)	
Plaintiff,)	
v.)	No. 3:07-0159
)	Judge Nixon
MICHAEL J. ASTRUE,)	Magistrate Judge Bryant
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

Pending before the Court is Defendant's ("Defendant" or "Commissioner") Motion to Dismiss Pursuant to Rule 41(b), Federal Rules of Civil Procedure ("Motion to Dismiss") (Doc. No. 25). Plaintiff did not file a Response to Defendant's Motion to Dismiss. Magistrate Judge Bryant ("Magistrate Judge") issued a Report and Recommendation ("Report") that Defendant's Motion be granted, and that the Complaint be dismissed for failure to prosecute. (Doc. No. 26-1). Plaintiff did not file any Objections to the Magistrate Judge's Report and Recommendation.

Upon review of the Magistrate Judge's Report and for the reasons stated below, the Court **ADOPTS** the Magistrate Judge's Report in its entirety, **GRANTS** Defendant's Motion, and **DISMISSES** the Complaint for failure to prosecute.

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed his application for Social Security Benefits on February 5, 2007. (Doc. No. 1). The Commissioner filed his Answer on April 4, 2007. (Doc. No. 13). By order entered April 5, 2007, the Magistrate Judge directed

Plaintiff to file a Motion for Judgment on the Administrative Record ("Motion for Judgment") within thirty (30) days. (Doc. No. 15). After mail addressed to Plaintiff was returned as undeliverable, the Clerk obtained an updated mailing address for Plaintiff. (See Doc. Nos. 16, 17, 18). Upon Motion by the Defendant (Doc. No. 20), the Magistrate Judge extended the deadline for Plaintiff to file his Motion for Judgment up to and including June 11, 2007. (Doc. No. 21). After Plaintiff failed to file his Motion for Judgment as directed, the Magistrate Judge issued an order on June 21, 2007 requiring Plaintiff to show cause on or before July 6, 2007, why his Complaint should not be dismissed. (Doc. No. 24). Plaintiff has not filed his Motion for Judgment, nor has he otherwise filed any Response to the Magistrate Judge's order to show cause. The Commissioner now has filed the pending Motion to Dismiss. (Doc. No. 25).

In view of Plaintiff's failure to file his Motion for Judgment, and his failure to respond to the Magistrate Judge's order to show cause, this Court **GRANTS** Defendant's Motion to Dismiss and **DISMISSES** the Complaint pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

It is so ORDERED.

Entered this the 5th day of October, 2007.



JOHN T. NIXON, SENIOR JUDGE
UNITED STATES DISTRICT COURT